

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RACHELLE LYNN HILL,
GABRIELLE KEYONA NOELL, LIANA
SAUNDERS, ALANA JADE SAUNDERS, and
KEYON SAUNDERS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SARAH CATHRYN HILL,

Respondent-Appellant,

and

ROBERT HILL,

Respondent.

UNPUBLISHED

August 21, 2007

No. 274425

Oakland Circuit Court

Family Division

LC No. 02-665038-NA

Before: Davis, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Respondent Sarah Cathryn Hill appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent first argues that the trial court lacked subject-matter jurisdiction because the evidence at the February 20, 2004 preliminary hearing did not support a finding that there was probable cause for a statutory basis for jurisdiction under MCL 712A.2(b), and further, because the evidence at the adjudicative trial failed to establish medical neglect or any other basis for jurisdiction. We find no merit to this issue.

Subject-matter jurisdiction is established initially by the pleadings, such as the petition, and exists “when the proceeding is of a class the court is authorized to adjudicate and the claim stated in the complaint is not clearly frivolous.” *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). Here, the allegations in the petition brought this case within the class of cases the court is authorized to adjudicate under MCL 712A.2(b). Therefore, the court had subject-matter jurisdiction.

To the extent that respondent challenges the sufficiency of the evidence in support of the trial court's finding of a statutory basis for jurisdiction, such a claim involves only a challenge to the court's *exercise* of jurisdiction. *In re Hatcher, supra* at 437-438. An error in the exercise of jurisdiction does not affect the court's subject-matter jurisdiction. *Id.* at 438-439. Further, "[m]atters affecting the court's exercise of its jurisdiction may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights." *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005); see also *In re Hatcher, supra* at 438, 444. Here, a direct appeal was available from the trial court's initial August 26, 2004 dispositional order entered after the court exercised jurisdiction over the children. See MCR 3.993(A)(1). Respondent did not appeal that decision and is barred from now collaterally attacking the trial court's exercise of jurisdiction in this subsequent appeal from the order terminating her parental rights. *In re Hatcher, supra* at 444; *In re Gazella, supra* at 680.

Respondent next argues that a statutory ground for termination was not established by clear and convincing evidence, and that termination of her parental rights was contrary to the children's best interests. We disagree.

A statutory ground for termination under MCL 712A.19b(3) must be established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a statutory ground for termination is established, the trial court must terminate a respondent's parental rights, unless termination is clearly not in the child's best interests. MCL 712A.19b(5). This Court reviews decisions terminating parental rights for clear error. *In re Trejo, supra* at 356.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. The evidence showed that respondent had a long history of homelessness and involvement with protective services. During the pendency of this case, she failed to fully invest in therapy, regularly missed appointments, and failed to regularly attend parenting classes and did not benefit from the classes that she did attend. Additionally, respondent was employed only sporadically, and she failed to obtain suitable housing for her children. Respondent also failed to obtain appropriate prenatal care for her most recent child, who was born in June 2006, with marijuana in her system. The evidence supports the trial court's decision to terminate respondent's parental rights under §§ 19b(3)(c)(i), (g), and (j). Further, the evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. Therefore, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Alton T. Davis
/s/ Bill Schuette
/s/ Stephen L. Borrello